



HARMONIZED SYSTEM
COMMITTEE

NC0791E1

-
32nd Session
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O. Fr.

Brussels, 29 October 2003.

POSSIBLE AMENDMENT OF THE EXPLANATORY NOTES
TO HEADINGS 61.01 AND 61.10 (PROPOSAL BY THE EC)
(Item VI.14 on Agenda)

Reference documents :

NC0713E1 (HSC/31)
NC0730E2, Annex IJ/7 (HSC/31 – Report)

NC0765E1 (HSC/32)

I. BACKGROUND

1. After the publication of Doc. NC0765E1, the Secretariat received the following comments from the **US** Administration concerning the **EC** proposal to amend the existing Explanatory Notes to headings 61.01 and 61.10.

II. NOTE FROM THE UNITED STATES

"Introduction

2. At its 31st session, the Harmonized System Committee considered a proposal by the **EC** to delete from the Explanatory Notes to heading 61.10 the exclusion for padded waistcoats and from the Explanatory Notes to headings 61.01 and 61.02 the inclusion for padded waistcoats. These Explanatory Notes are said to be in conflict with the legal text by incorrectly restricting the scope of heading 61.10 and by broadening the scope of headings 61.01 and 61.02.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

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3. The **United States** does not support this proposal. Rather, the **United States** agrees with the Secretariat, as discussed in paragraph 12 to Doc. NC0713E1, that the exclusion and inclusions for padded waistcoats in the Explanatory Notes are fully justified and properly reflect the scope of the headings concerned.
4. A “padded waistcoat” is an article that resembles a waistcoat in shape (sleeveless garment), but is padded to provide insulation and is generally worn over all other clothing as outerwear.
5. For the reasons set forth below, the **United States** considers a padded waistcoat to be outerwear of heading 61.01 or 61.02 rather than a waistcoat of heading 61.10. Therefore, the **United States** finds that the above-mentioned Explanatory Notes provide very useful guidance in the classification of padded waistcoats. Accordingly, the **United States** supports the retention of references to these products in the Explanatory Notes.

Classification of Padded Waistcoats

6. Heading 61.10 provides for “jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted.” The Explanatory Notes indicate that this heading covers articles designed to cover the upper parts of the body and that padded waistcoats of headings 61.01 and 61.02 are excluded from heading 61.10.
7. Heading 61.01 provides for “men’s or boys overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, knitted or crocheted, other than those of heading 61.03” and heading 61.02 provides for “women’s or girls’ overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, knitted or crocheted, other than those of heading 61.04.” The Explanatory Notes provide that these headings cover garments characterized by the fact that they are generally worn over all other clothing for protection against the weather. The Explanatory Notes also provide that, among other things, padded waistcoats are included in headings 61.01 or 61.02, as appropriate.
8. Garments of heading 61.10 are worn to cover the upper body. Garments of heading 61.10 generally do not contain an insulating layer or padding as a middle layer between the outer layer and inner lining. Although they may provide some warmth, garments of heading 61.10 are generally recognized as a second layer of clothing that is not removed when indoors and can be worn under a jacket.
9. By contrast, garments of headings 61.01 and 61.02 are worn to provide protection from the elements (e.g., wind, rain, cold, etc.). Garments of headings 61.01 and 61.02 are worn over other clothing and are typically removed when indoors. Many of the garments of headings 61.01 and 61.02 contain an insulating layer between the outer layer and inner lining. Unlike garments of heading 61.10, it is not unusual for garments of heading 61.01 or 61.02 to be constructed from three layers of fabric. Generally, the insulating material or the outer layer of fabric (e.g., wool) of such garments of these two headings provides protection from the cold.

10. Padded waistcoats are generally composed of three layers of fabric: an inner lining fabric, a middle layer of insulating material, and an outer shell fabric. Padded waistcoats may have other jacket characteristics such as oversized armholes, heavy-duty snaps, stand-up collar and pockets at the waist. The padding gives the garment the character of an outerwear garment rather than a second-layer upper body garment (such as a waistcoat of heading 61.10). The oversized armholes, heavy-duty snaps, stand-up collar and pockets at the waist also give the garment the character of an outerwear garment. Therefore, the **United States** finds that these jacket-type padded waistcoats are classified in headings 61.01 or 61.02, as appropriate, by application of General Interpretative Rule 1.

Conclusion

11. In light of the above, the **United States** believes that deletion of the current Explanatory Notes will cause confusion in the classification of padded waistcoats, resulting in the possible transfer of these goods from headings 61.01 and 61.02 to heading 61.10. Therefore, the **United States** supports the retention of these Explanatory Notes.
12. In order to qualify further the character of padded waistcoats, the **United States** could support amendments to these Explanatory Notes to indicate that the padded waistcoats of headings 61.01 and 61.02 are generally worn over all other clothing for protection against the weather.”

III. SECRETARIAT COMMENTS

13. As indicated in paragraph 1 above, the proposal to amend the Explanatory Notes to headings 61.01 and 61.10 came from the **EC**, and the Secretariat’s comments on this matter can be found in Doc. NC0765E1.
14. Aside from that the Secretariat tends to agree with the view expressed by the **US** Administration in paragraph 12 above, to the effect that the characteristics of the padded waistcoats concerned should be specified in the Explanatory Note to heading 61.01 (61.02).

IV. CONCLUSION

15. The Committee is invited to take note of the **US** Administration's comments during its examination of this Agenda item.
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